

12-11-1997

Joint And Equal Physical Custody Of Children To Both Parents.

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BILL JONES
Secretary of State
State of California

ELECTIONS DIVISION
(916) 657-2166
1500 - 11th STREET
SACRAMENTO, CA 95814
Voter Registration Hotline
1-800-345-VOTE
For Hearing and Speech Impaired
Only
1-800-833-8683
e-mail: comments@ss.ca.gov

December 11, 1997

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (97237)

FROM:

A handwritten signature in cursive script, appearing to read 'Cathy Mitchell', written over a horizontal line.

CATHY MITCHELL
ELECTIONS SPECIALIST

SUBJECT: INITIATIVE #783

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**JOINT AND EQUAL PHYSICAL CUSTODY
OF CHILDREN TO BOTH PARENTS.
INITIATIVE STATUTE.**

The proponents of the above-named measure are:

Henry Gamboa; Michele Delo; Jay Bowden;
Michael A. Salatino; William W. Marckwardt
Parent-Child Preservation Initiative
8332 Case Street
La Mesa, CA. 91942

#783
JOINT AND EQUAL CUSTODY OF
CHILDREN TO BOTH PARENTS.
INITIATIVE STATUTE.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 433,269
California Constitution, Article II, Section 8(b)
2. Official Summary Date:.....Thursday, 12/11/97
Elections Code section (EC§) 336
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336)Thursday, 12/11/97
 - b. Last day Proponent can circulate and file
with the county. All sections are to be filed at the
same time within each county (EC §336, 9030(a)) Monday, 05/11/98*
 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (EC §9030(b)).....Thursday, 05/21/98

(If the Proponent files the petition with the county on a date prior to 05/11/98,
the county has eight working days from the filing of the petition to determine
the total number of signatures affixed to the petition and to transmit the total to
the Secretary of State) (EC §9030(b)).
 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures,
and notifies the counties (EC §9030(c)).....Saturday, 05/30/98**
 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(EC §9030(d)(e))..... Friday, 07/10/98

* Date adjusted for official deadline which falls on Sunday. Elec. Cd., §15.

** Date varies based on receipt of county certification.

INITIATIVE #783

Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 05/30/98, the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 476,596 or less than 411,606 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 411,606 and 476,596 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a))..... Monday, 07/20/98**
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State (EC §9031(b)(c)).Monday, 08/31/98

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 07/20/98, the last day is no later than the thirtieth working day after the county's receipt of notification). EC §9031(b)(c).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033).Friday, 09/04/98**

<p>NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 3, 1998 GENERAL ELECTION: This initiative must be certified for the ballot 131 days before the election (June 25, 1998). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections official by April 17, 1998. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 25, 1998.</p>
--

** Date varies based on receipt of county certification.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 123 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100,101,104,9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation in printing, typing and otherwise preparing your initiative petition for circulation and signatures, Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq. A brief summary is attached for your reference.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
(916) 445-9555

Facsimile: (916) 323-2137
(916) 324-5490

December 11, 1997

FILED
In the office of the Secretary of State
of the State of California

DEC 11 1997

Bill Jones
Secretary of State
1500 - 11th Street
Sacramento, CA 95814

BILL JONES, Secretary of State
By [Signature]
Deputy Secretary of State

Re: Initiative Title and Summary
Subject: JOINT AND EQUAL PHYSICAL CUSTODY OF CHILDREN TO
BOTH PARENTS. INITIATIVE STATUTE.
File No: SA 97 RF 0037

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponents of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the names and address of the proponents are as stated on the declaration of mailing.

Sincerely,

DANIEL E. LUNGREN
Attorney General

[Signature]

Michele W. Olsen
Initiative Coordinator

MWO:ms
Enclosures

Date: December 11, 1997
File No: SA97RF0037

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

JOINT AND EQUAL PHYSICAL CUSTODY OF CHILDREN TO BOTH PARENTS.

INITIATIVE STATUTE. Provides that the court must order joint legal custody with joint and equal physical custody to both parents in any judicial proceeding unless written agreement between parents to the contrary or conviction related to child abuse exists.

Court shall have discretion to restrict a parent's access to child(ren) when formal criminal complaint alleging child abuse has been filed. Requires referral to district attorney for felony prosecution of anyone who makes a false allegation with the intent to deprive a child of access to a parent. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: This measure would result in unknown costs and savings to the state related to court activities for child custody determinations; net effect probably not significant in context of total court expenditures. It would also result in unknown state and local costs -- potentially over \$10 million annually to the state and in the millions of dollars to the counties --- because of a decline in child support obligations and payments.

California Family Court Reform Act

SA97RF0037
Amdt. #1-S

Parent - Child Preservation Initiative
177 Riverside Avenue Suite F
Newport Beach, CA 92663
714.723.9620
714.723.9624 (fax)

Attorney General Daniel E. Lungren
State of California Department of Justice
Rosemary Calderon, Initiative Coordinator
1300 I Street Suite 125
PO Box 944255
Sacramento, CA 94244-2550

RECEIVED

OCT 16 1997

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

October 16, 1997

Dear Ms. Calderon:

We, the undersigned proponents for the initiative filed under #SA 97 RF 0037 are submitting amendments to our original measure. The new measure is enclosed.

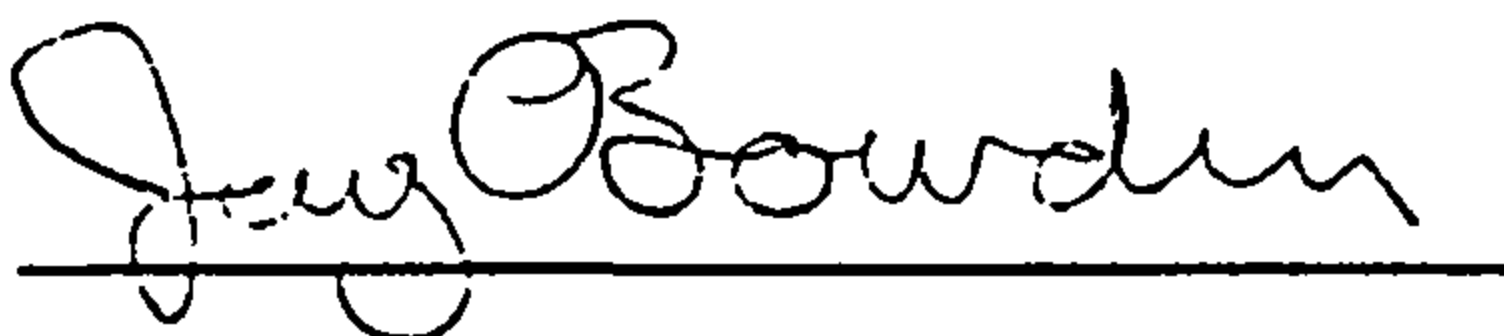
Thank You



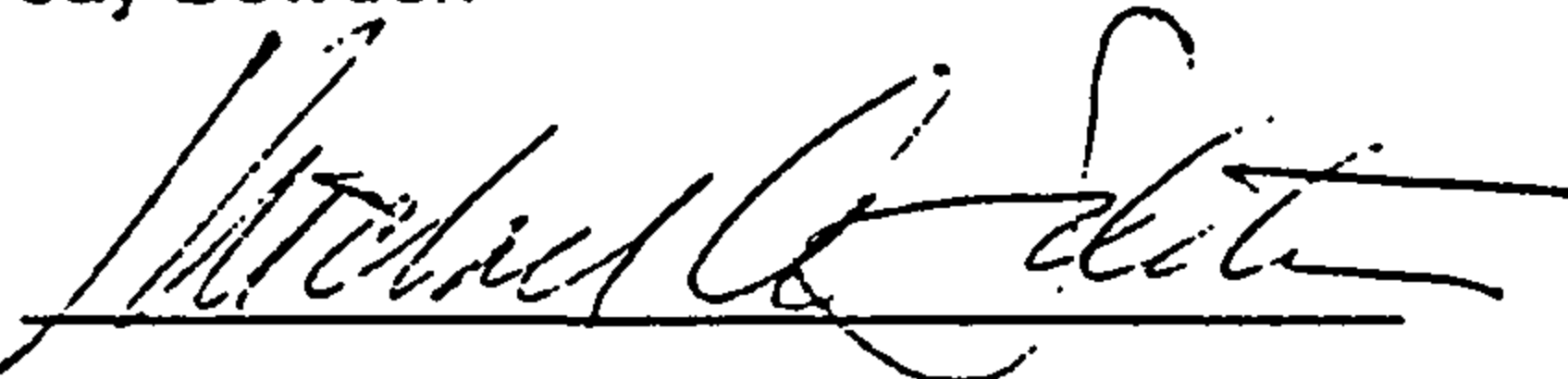
Henry Gamboa



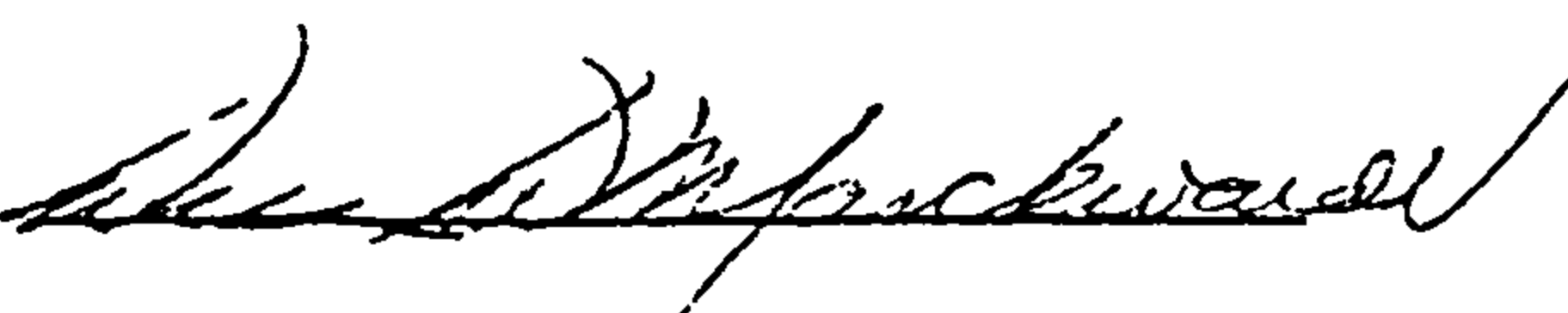
Michele Delo



Jay Bowden



Michael A. Salatino



William W. Marckwardt

California Family Court Reform Act

The people of California have found that it is the public policy of this state that it is in the best interests of all children to have frequent and continuing contact with both parents.

Therefore:

1. In any judicial proceeding concerning any issue of child custody, the court shall order joint legal custody with joint and equal physical custody to both parents unless there is either:
 - a. a written agreement between the parents to the contrary; or,
 - b. a conviction pertaining to child abuse under Penal Code section(s) 273a; 273d; 278.5; 285; 286; 288; 288a; 290; 311.2; 311.3; 11165.1; 11165.2; 11165.3; or 11165.6.

The court, its officers, caseworkers, evaluators, and staff personnel shall not consider any allegation(s) under any of the aforementioned Penal Code sections absent a conviction, except-

In the interest of protecting children at risk, the court shall have the discretion to restrict the accused party's access to the child(ren) when there is a formal criminal complaint of child abuse filed with the proper authorities pursuant to section 1b. Formal criminal charges must be filed against the accused by the appropriate agency within ninety days of the filing date of the complaint, or the complaint shall be considered to be without merit. The court may order supervised visitation during the 90 day investigation period.

If supervised visitation is ordered, preference shall be given to visitations taking place in an environment familiar to the child and/or supervised party. In the event no criminal charges are filed within the said ninety day period, full reinstatement of parenting rights shall be immediately granted.

2. All proceedings within the Family Court shall be conducted under the California Evidence Code, Section 300 et seq.
3. Any person making a false allegation with the intent of depriving a child of access to a parent shall be referred by the court to the district attorney for prosecution for the commission of a felony. Any person convicted of making a false allegation, or to have caused a false allegation to be made with the intent of depriving a child of access to a parent, shall be liable for all costs related to the defense and exoneration of the falsely accused party.
4. Each parent shall submit a parenting plan to the court, with his or her moving or responsive papers. If the parents cannot agree to an equal parenting plan, the judge shall select the parenting plan that best allows the child to have equal time with both parents. Each parent shall have the right to provide parenting time in preference to any other daycare placement.

The Court shall have the discretion to consider reasonable temporary unequal parenting time, during the time the infant is breast-feeding. However, in recognition of the importance of the infant's early

need to bond with both parents, the Court shall order regular, substantial parenting time to each parent during this period.

5. Parenting plans shall be detailed. Parenting plans shall be designated for minimum periods of two years for the benefit of the child's stability, and automatically renewed, absent a change of circumstances. Parenting time shall exclude actual school time, and shall also exclude time when the child is in daycare provided by someone other than one of the parents.
 6. Upon a first violation of the court ordered time share provisions, the court shall order:
 - The offending parent to complete a private fee-paid class addressing shared parenting issues (at the offending party's expense), with proof of completion filed with the court within a ninety days of such order.
 - Upon subsequent violation(s) of the time share plan, the offending parent shall be ordered to perform community service equivalent to the time share hours denied, and the offended parent shall be entitled to make-up time for those hours denied.
 - Repeated violation(s) of the parenting plan shall be considered Willful Cruelty under Penal Code section 11165.3, and shall be referred by the Court to the District Attorney for prosecution.
- The court shall have the discretion to address situations relating to children where time share is occasionally interrupted due to emergency medical situations, temporary illness, injury, or rehabilitative care, documented by a physician. If a parent is determined to have substantially violated any provision of the parenting plan, the court shall award fees and costs for motion(s) brought by the offended parent.
7. In the event that a child is removed from physical custody of his or her parents, relatives/grandparents shall be first choice caretakers, primary to temporary or permanent protective care, foster care, or adoption. In the event that such state intervention occurs, the state shall be obligated to identify, locate, and provide appropriate notice to such relatives/grandparents under the same laws and policies as those affecting parents.
 8. Should the court order attorney's fees to be paid by one parent for the other parent's attorney in any custody or time share proceeding, those fees shall not exceed five thousand dollars total per calendar year for all such proceedings.
 9. The establishment of this act constitutes a change of circumstances for the purpose of any modification of any child custody order entered into prior to this act's operative date.
 10. If the provision or clause of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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